

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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MACK BUTLER, DASHAUN SIMS, CLYDE LOFTON,
PAUL ALVER, KEVIN KING, and RICKEY LYNCH,
on behalf of themselves and all others similarly situated,

11-cv-02602 (JS) (GRB)

Plaintiffs,

vs.

**DECLARATION OF
DANIEL H. R. LAGUARDIA**

SUFFOLK COUNTY, VINCENT F. DEMARCO, in his
individual and official capacity, JOSEPH T. CARACAPPA,
in his individual and official capacity, and JOHN P.
MEYERRICKS, in his individual and official capacity,

Defendants.

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I, DANIEL H.R. LAGUARDIA, make the following declaration under penalty of
perjury³:

1. I am a member of the law firm of Shearman & Sterling LLP
("Shearman & Sterling"), a law firm of approximately 900 lawyers with offices in New York,
Washington, D.C., Palo Alto, Paris, London, Tokyo, Frankfurt, Hong Kong, and Beijing, among
other locations.

2. This declaration is filed in support of the Plaintiffs' motion for class certification.
The proposed Rule 23(b)(2) injunctive class includes all persons who are or will be held in one
of two Suffolk County Correctional facilities located at Yaphank and Riverhead in Suffolk
County. Four men currently incarcerated in the SCCF, Mack Butler, Dashaun Sims, Clyde
Lofton and Paul Alver, are proposed to represent the class to secure comprehensive declaratory

³ All capitalized terms referred to but not defined herein have the same meaning as in Plaintiffs' Memorandum of Law in Support of Motion for Class Certification, dated May 17, 2012 ("Memorandum of Law").

and injunctive relief that will rectify the unconstitutional and inhumane conditions at the Suffolk County correctional facilities, as well as any incidental damages.

3. Plaintiff Kevin King is proposed to represent a Rule 23(b)(3) damages class seeking monetary damages, as the court deems appropriate, for the constitutional violations that led to this disgraceful situation in Suffolk County.

4. This declaration is intended to demonstrate that Shearman & Sterling, working with the New York Civil Liberties Union, will meet the requirements of Fed. R. Civ. P. 23(a)(4) by adequately representing the proposed Plaintiff Classes in this litigation.

5. Shearman & Sterling was founded in 1873 and has extensive experience in complex civil litigation, including recent class action cases. Shearman & Sterling has ample support staff, facilities and experience to handle a large-scale, discovery-intensive litigation.

6. Shearman & Sterling has a deep and long-standing commitment to *pro bono* work. Shearman & Sterling lawyers spend 50,000 hours on average per year on *pro bono* and other public service matters.

7. The firm has had extensive experience with discrimination and civil rights litigation with partners such as Lawyers Committee for Civil Rights Under Law, American Civil Liberties Union, Urban Justice Center, Washington Lawyers Committee, and the Legal Aid Society. *See Chen, et al. v. Amor Restaurant Group Inc., et al.*, No. 1:12-cv-01146-AKH (S.D.N.Y. filed Feb. 14, 2012) (representing restaurant workers in civil lawsuit alleging violations of state and federal labor laws); *Copantitla v. Fiskardo Estiatorio*, No. 1:09-cv-01608 (S.D.N.Y. filed Feb. 20, 2009) (representing restaurant workers in civil lawsuit alleging, *inter alia*, violations by employer of state and federal labor laws); *Gil Santiago Cano, et al., v. DPNY, Inc., d/b/a Domino's Pizza, et al.*, No. 10 Civ. 7100 (ALC) (JCF) (S.D.N.Y. filed Sep. 16, 2010)

(asserting class claims on behalf of current and former delivery workers alleging state and federal labor law violations); *Equal Emp't Opportunity Comm'n v. Tyson Foods, Inc.*, No. 05-cv-01704 (N.D. Ala. filed Aug. 11, 2005) (alleging discrimination in Southern processing plants where restrooms were allegedly locked with keys given only to white employees); *Faulkner v. Jones*, 10 F.3d 226 (4th Cir. 1993) (argued and briefed successful appeal to affirm preliminary injunction allowing first female to attend the Citadel).

8. For years, the firm has been heavily involved in death penalty and wrongful conviction litigation, representing defendants in state and federal court to challenge faulty convictions and improve the conditions for prisoners on death row. The firm is currently litigating three death penalty cases in Ohio and Florida (*see, e.g., Herring v. Florida*, No. 11-1158 (filed Mar. 19, 2012)), and regularly works with the Legal Aid Society in New York on complex criminal appeals. In November, 2011, Shearman & Sterling, as co-counsel to the Legal Aid Society, overturned the 1993 murder conviction of a wrongly convicted man in Supreme Court, Bronx County. *See People v. Morillo*, No. 7672/91, 2011 WL 7631523 (N.Y. Sup. Ct. Oct. 6, 2011).

9. Shearman & Sterling also has significant experience with complex law reform initiatives – the firm has worked with the Office of the Prosecutor for the International Criminal Tribunal for Rwanda (ICTR) for the past 11 years and more than 101 lawyers have completed externships at the ICTR during this time, addressing legal issues such as the intersection of free speech and incitement to genocide and have provided the opportunity for us to play a role in shaping new law.

10. In 2011, Shearman and Sterling received the Legal Aid Society's highest honor, the 2011 Pro Bono Publico and Public Service Law Firm Award, recognizing the firm's

outstanding *pro bono* service to Legal Aid and its clients. In the past two years, the firm has also received formal recognition for its *pro bono* efforts from the Tahirih Justice Center, the D.C. Circuit Judicial Conference Committee on Pro Bono Legal Services, Legal Services NYC, the Financial Times' Innovative Lawyers Report, and the New York State Courts.

11. I was elected a member of the firm in 2010. My practice includes class action litigation, securities litigation, internal investigations, regulatory matters and complex commercial litigation at the trial and appellate levels.

12. I graduated from the University of Chicago (B.A., 1993) and New York University Law School (J.D., 1998). From 1998-1999, I clerked for Judge David G. Trager of the United States District Court (E.D.N.Y.), and from 1999-2000, I clerked for Judge Anthony J. Scirica of the U.S. Court of Appeals, Third Circuit.

13. I am supervising a team of Shearman & Sterling lawyers and legal paraprofessionals who will support the firm's role as co-counsel to the proposed Plaintiff Classes in this action. The attorneys will include associates Melissa Godwin, Edward Timlin, Jeena Shah, Alexis Berkowitz, Jennifer Rimm, Jessica Bartlett, and Erzulie Cruz.

14. Shearman & Sterling's lawyers, support staff, experience and resources will allow us, working in tandem with the NYCLU, to provide top-quality representation to the proposed Plaintiff Classes in this litigation.

Dated: New York, New York
May 17, 2012

/s/ Daniel H. R. Laguardia
DANIEL H.R. LAGUARDIA